

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the matter of)

Streamlining the Commission's)
Antenna Structure Clearance Proceeding)
and Revision of Part 17 of the)
Commission's Rules Concerning)
Construction, Marking, and Lighting)
of Antenna Structures)

File No. WT Docket No. 95-5

**COMMENT IN RESPONSE TO
NOTICE OF PROPOSED RULEMAKING**

The Wireless Cable Association International, Inc. ("WCAI"), by its attorneys and pursuant to Section 1.415 and 1.419 of the Commission's Rules, hereby submits its comments in response to the *Notice of Proposed Rulemaking* ("NPRM") in this proceeding.^{1/}

WCAI is the trade association of the wireless cable industry. Its members include the operators of virtually every wireless cable system in the United States, as well as licensees in the Multipoint Distribution Service ("MDS"), the Instructional Television Fixed Service ("ITFS") and various point-to-point microwave services that provide transmission capacity to wireless cable systems. While some wireless cable operators own their own towers, some lease space on antenna structures owned by others. In either case, the MDS, ITFS and point-to-point microwave licensees that supply transmission capacity operate their stations from

^{1/}Revision of Part 17 of the Commission's Rules Concerning Construction, Marking, and Lighting of Antenna Structures, FCC 95-16, WT Docket No. 95-5 (rel. Jan. 20, 1995). [hereinafter cited as "NPRM"]

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antenna structures which are governed by Part 17 of the Commission's Rules regarding construction, marking and lighting of antenna structures. As such, WCAI has a vital interest in the outcome of this proceeding.

At the outset, WCAI applauds the Commission for proposing in the *NPRM* to streamline the Commission's antenna structure clearance process, replacing the current clearance procedures applicable to licensees and permittees with a uniform registration process for structure owners. Specifically, WCAI supports the Commission's proposals to make the antenna structure owner primarily responsible for registering the antenna structure with the FCC, maintaining the painting and lighting of the antenna structure in accordance with the Commission's Rules, notifying the Commission of any changes in the height, coordinates, ownership, painting, or lighting of the structure, and notifying the Commission upon dismantling the structure.^{2/} WCAI agrees that adoption of the Commission's proposals will substantially reduce the paperwork to be processed by the FCC and will expedite the processing of applications. As the Commission is well aware, delays in the processing of MDS and ITFS applications has hampered the emergence of wireless cable as effective competition to cable. Thus, WCAI supports the Commission's proposal to simplify the registration process for antenna structures so as to improve the processing time for MDS and ITFS applicants.^{3/}

^{2/}*Id.*, at ¶ 7.

^{3/}Wireless cable systems are comprised of several MDS and ITFS stations which are usually licensed to several separate entities. As a result, the wireless cable operator must deal with
(continued...)

While WCAI generally supports the Commission's efforts in the *NPRM*, WCAI requests further clarification regarding the responsibility of Commission licensees for the installation and maintenance of the painting and lighting for each antenna structure. While the Commission is proposing to hold the antenna structure owner "primarily" responsible for the installation and maintenance of painting and lighting for each antenna structure, the *NPRM* provides that where reliance on the antenna structure owners is ineffective, the Commission will look toward the tenant licensees to ensure that the structure is properly painted and lighted.^{4/}

WCAI requests the Commission to clarify the responsibility that will be placed on the licensees in the event that the structure owner fails to comply with the Commission's Rules governing antenna structures. Specifically, WCAI requests that the Commission revise its proposed rules to provide that no licensee will be sanctioned unless it has failed to cure the antenna structure defects within a reasonable time period after it has been afforded notice of those defects. Since the Commission will be holding antenna structure owners primarily responsible for compliance with the Commission's Rules, it would be fundamentally unfair to sanction tenants licensees without affording them notice and the opportunity to cure their landlord's failings.


^{3/}(...continued)
several ITFS and MDS licensees. The Commission's proposed rule will greatly reduce the paperwork burden on the wireless operator in the event that the antenna structure owner modifies the tower upon which the wireless operator's system is constructed by reducing the number of applications to be filed.

^{4/}See *NPRM*, at ¶ 21.

WHEREFORE, for the foregoing reasons, WCAI urges the Commission to revise its rules as proposed in the *NPRM*, modified to assure that tenant licensees are given notice by the Commission of antenna structure rule violations and a reasonable opportunity to correct the deficiencies before sanctions can be imposed on the licensee.

Respectfully submitted,

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